PRESIDENT: May I take it that the House permits the motion to be withdrawn?

The motion was, by leave of the House, withdrawn.

The following motions lapsed on account of the time-limit:—

MR. K. P. NILAKANTA PILLAI:

317. To reduce the total allotment of Rs. 7·45 lakhs under Demand XI by Rs. 100.

MR. KALLUR NARAYANA PILLAI:

318. To reduce the total allotment of Rs. 7·45 lakhs under Demand XI by Rs. 100

PRESIDENT: May I take it that the House grants the whole of the demand—Administration of Justice?

The grant was made.

DEMAND XII—CENTRAL PRISON—Rs. ·92 LAKH.

MR. K. GEORGE (*Chief Secretary to Government*): Sir, I move for a grant not exceeding Rs. ·92 lakh under Demand XII—Central Prison.

Motion 319.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Sir, I beg to move the following motion:—

319. To reduce the allotment of Rs. 77,305 for Central Prison by Rs. 100.

My object in tabling this motion is not to find fault with anybody, but simply to draw the pointed attention to what I believe to be the defects in the present system of prison administration. What I would desire to do is to draw the pointed attention of this Council to the fact that the Prison Regulation was enacted about 30 years ago and much of our knowledge concerning crime and criminology are recent acquisitions. That the present system of jail administration is not in keeping with the progress that has been made elsewhere cannot be denied. What I wish to say is that the Central Prison, where we detain the people who break the law, is also a place where it seems to me the officials also show considerable disregard to the provisions of the law. I read in the Administration Report for last year that a jailer was running the institution. The Central Prison is constituted under an enactment which clearly lays down that there shall be a Superintendent, a Medical Officer and a Jailer. When the Jailer undertook to run the Jail himself, it seems to me that he has broken the provisions of the law and taken upon himself the duty of running the institution without reference to the law as definitely laid down in the Prisons Regulation which lays down that the Medical Officer may also be the Superintendent. When there was such a provision in the Regulation, why the Jailer undertook to run the Jail is a mystery to me. Well, this might be taken to be an error and might not have caused much substantial injury to the prison administration. The Law Member may point out certain excuses and say that this is a technical mistake. But this mistake taken in conjunction with some others would disclose the tendencies there.

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I find from the Chief Secretary's answer to an interpellation that it is obligatory on the part of the official visitors to pay a definite number of visits. They have not done so. Why they also disregarded the provisions of the law is a further mystery to me.

Another matter is that the Jail Rules distinctly lay down that punishment by flogging should not be inflicted as a rule upon offenders who go wrong for the first time. The rules also provide that whipping ought not to be inflicted until all other methods of punishments have been tried and have failed and that whipping ought to be inflicted only in cases of specially grave crimes. We see, Sir, the information was elicited by interpellations that two persons were flogged in the Central Prison for writing anonymous petitions against the jail authorities. In the first place, there is this fact that the aggrieved and the judge were both one and the same person. It was a petition against the jail officials and it was a jail official who inflicted this most cruel and most debasing form of punishment. The offence was after all only the writing of a petition. That cannot be—

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Was the offence brought home to the prisoner?

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvaigad*): No, nothing was done. What was said was that it was done in the interests of discipline. I should like to say one word in regard to that. I think discipline has been given a very misleading prominence so far as the facts of this case are concerned. Discipline, Sir, should be enforced with a particular object. What is the object of this in the prison? The object is to reform the prisoner. If the discipline aimed at is such as will frustrate the object, the argument has been wrongly employed. Another reason was that whatever the Jail Superintendent did in the exercise of the discretionary power vested in him and exercised by him must be upheld by the Government. Discretion should be used and I think the learned Law Member expended a considerable volume of learned eloquence the other day that the discretion was to be used for the purpose of removing the severity or rigour of the law and to make the Regulation operate less severely and lightly upon individuals. The discretion ought to have been used with a view to lessen the severity of the rules and not to enhance it. The Regulations lay down the upper limit of the punishments say, for instance, punishments not exceeding five years. The discretion is given with a view to reduce this limit. The discretion in this case, I have no doubt, has been wrongly used. Now, we are called upon to vote supplies for next year and we have a right to see on what basis the Central Prison is being run. Are the punishments such as will conduce to prison reform and to rehabilitate the prisoners in order that they may become useful and peaceful citizens? If the object of the prison is not to reform the criminal, I think the Council has got a right to refuse the demand. Regarding the punishment of flogging, it cannot be denied that no element at reformation is there. A man has been brutally punished and that is not reformation. That is a case of retribution.

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[Mr. K. Madhavan Pillai.]

I can quote other instances of such punishments also, although they are not strictly prohibited by the rules here. In the Madras Jails, they have laid down that solitary punishment ought not to be awarded as a Jail punishment. Here, 15 persons have been not only solitarily confined, but the punishment was even coupled with penal diet. It means that a prisoner has been cast into a dungeon and has been given food so insufficient that he was made to howl from the pangs of hunger. That is not reformation. Government should be thanked for appointing a gentleman for delivering lectures on moral instruction. When a poor prisoner is put in fetters and tied hand and foot and an infuriated warder is laying blows upon blows on his back, cutting his skin and lacerating his flesh and spilling his blood, what, Sir, is the use of another gentleman in another corner imparting moral instruction? These are really contradictory and one has no relation with the other.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Does not Mr. Madhavan Pillai recognise the need for making these prisoners more philosophical?

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): But not in conjunction with whipping. I have no objection to the appointment of any number of moral instructors.

MR. K. GEORGE (*Chief Secretary to Government*): Does he object to whipping under the orders of the Magistracy?

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): I do. In fact, that system of punishment has practically ceased to exist. Only in a very few number of cases are they inflicting it.

In the Madras Jails, where there is an average strength of 20,000 prisoners they have whipped only three individuals during the last year. That shows that they were able to maintain discipline even with 20,000 prisoners. If the criminal courts are doing it, they are going out of the tendencies of the times.

Another thing is in regard to visitors. I said already that although the rules enjoin that official visitors have to pay a number of visits to the jail, they have not done so. Secondly, in regard to the solitary confinment coupled with penal diet, or in regard to the whipping, I perused all the remarks that were placed on the table by visitors to the Central Prison. I was not able to discern that any of them took any interest in the administration of the prison or in the welfare of the prisoners or to promote the very object of the prisons, *viz.*, the welfare of the prisoners.

Before I pass on, I should like to say that, in justification of having inflicted whipping, the Chief Secretary asked me what is to be done with a hardened criminal but to flog him? I should like to read to him a passage from an eminent writer.

"No man is so degraded as to be wholly beyond the reach of appeal to the finer feelings. Beneath the wild waves of evil, there are ever the eternal rocks of the good. What cannot be called in question is that no man is so mean as to be wholly beyond the reach of such appeals. That this is not blind optimism but commonsense is conclusively shown by the history of certain reforms in our system of Jail discipline. The supreme fact is man's capacity to be borne anew."

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"It is a possibility in men's lives. To the least of men we cannot deny the hope of radical reform without denying the evidence of the senses. Around us every day men and women stepped in vice pass under the spell of some new influence in the presence of which hidden and unsuspected possibilities of character reveal themselves sweeping the soul onwards towards higher levels where old things have passed away and all things have become new."

In regard to the visitors, Sir, I should like to make definite proposals and that is that a Judge of the High Court should be invited to become a visitor of the jail. I shall not dialate upon this necessity but read out the following passage:

"A system in which the Judges interest in a prisoner ends with his conviction is a mistake. If, means were devised to associate the Judge with the administration of prisons, he will have, as a rule, what he now lacks a much more intimate realization of his responsibilities. There is indeed good reason for making such an association the means of obtaining year by year a commentary on the character of Prison Administration. If a Judge of the High Court were made responsible for the inspection of each District Jail with the duty of visitation and report we should end much of the ignorance which now surrounds the whole character of the prison system and we should have the means of utilising a body of expert suggestions as the avenue to continuous reform."

The law simply limits the upper limit of sentences. The exact nature is left to the discretion of the Judges. A Judge of the High Court visiting the jail will be able to find out the effect of the punishment upon the convict in cases where alternative sentences are prescribed and to issue instructions that only particular sentences should be awarded.

Another thing I should like to point out is that one-fifth of the prisoners are civil debtors, there were about 91 last year. Why should we inflict this punishment, especially at this time when the Government of India is seriously considering the question of—

PRESIDENT: Your time is up. You may finish the sentence.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Why should we inflict this punishment especially at this time when the Government of India is seriously considering the question of abolishing Civil Jails? I am making a definite suggestion that flogging should be inflicted only in cases of severe assault on jail officials. I reduce my suggestions to two, namely, that a Judge of the High Court should be asked to visit the jails and that flogging should be inflicted seldom and only in cases of assault by the prisoners on jail officials.

MR. K. GEORGE (*Chief Secretary to Government*): Sir, all of us know that Mr. Madhavan Pillai is an ardent prison reformer and his speech on this occasion has been very instructive and shows the extent of his interest in prison reform. Now, Mr. Madhavan Pillai mentioned a few points which calls for some answer from the Government. Our Prison Regulation as he said is rather an old one and the science of penology is one that has highly developed in recent years. That is an admitted fact. But I am not quite sure that there has been any British Indian enactment since the last Indian Jail Commission.

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MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Is the Chief Secretary aware that recently a Committee has been appointed in Bengal?

MR. K. GEORGE (*Chief Secretary to Government*): Yes.

MR. A. K. PILLAI (*Karunagapalli*): Is he aware that a Committee has been appointed in Burmah?

MR. K. GEORGE (*Chief Secretary to Government*): I am not aware that any enactment was passed after that. I think our Regulation has been revised on the basis of the British Indian enactment.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): May I know whether they have not revised their rules?

MR. K. GEORGE (*Chief Secretary to Government*): There may be a few variations.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Jails are mostly under the control of medical men and although express provision was made in our Regulation 30 years ago, no medical man was appointed to be in charge of the jail.

MR. K. GEORGE (*Chief Secretary to Government*): Here there is a Medical Officer and his advice is always sought before any serious punishment is inflicted.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): That is only in the case of whipping.

MR. K. GEORGE (*Chief Secretary to Government*): Of course, he attends on the sick.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): In British India also, he attends on the sick. But the administration is in the hands of medical men.

MR. K. GEORGE (*Chief Secretary to Government*): It does not seem that medical men are appointed in charge of jails because they are experts in sociology or penology.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): The medical men in charge of the jails should have previous experience of mental diseases and they are deputing men to study the mental diseases so that they may be able to know the defects of the prisoners.

MR. K. GEORGE (*Chief Secretary to Government*): That is a good idea.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): They are doing it.

MR. K. GEORGE (*Chief Secretary to Government*): The next point Mr. Madhavan Pillai mentioned was that he noticed that the Jailer was running the institution. That was some time ago. Recently, Government noticed that it was not quite legal and they have discontinued that system and it will never happen.

The most important criticism in Mr. Madhavan Pillai's speech was directed against flogging. He seems to think that flogging is resorted to as an act of retribution. That view, requires considerable modification. It is not to in flict any vindictive repunishment on the offender that it is resorted to.

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MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): I shall try to explain it. If you inflict an unjust punishment upon me, can you expect me to believe that you did it out of benevolent motives?

MR. K. GEORGE (*Chief Secretary to Government*): The Jail is an institution in which a large number of convicts are gathered together and are placed in the charge of one man. And when it is borne in mind that these people are all breakers of law, it will be admitted that a grave responsibility rests upon the man in charge.

Now, the object of punishment in such cases is not necessarily to victimise the culprit, but for the sake of others.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Why should any person be victimised or punished? Is it to serve as an example to others?

MR. K. GEORGE (*Chief Secretary to Government*): It is but natural that a man who is a grave offender should be punished.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Was not the petition written with a view to show the wrongs done by the Jail authorities? Did it not show that the mental frame of the Jail officials is a little disturbed?

MR. K. GEORGE (*Chief Secretary to Government*): This is an incident which took place in the year 1099.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): When the rule expressly lays down that whipping should be resorted to only in cases of very grave crimes, does this anonymous petition come under the description of 'grave offence'?

MR. K. GEORGE (*Chief Secretary to Government*): The question is, who is to decide whether a particular crime is grave or not.

I do not quite admit that it is altogether only reformation that is the object of prison. As far as I can make out, the object of prison is punishment, segregation and reformation.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Is the object of punishment put to the best use of in the case of prisoners in the Central Prison?

MR. K. GEORGE (*Chief Secretary to Government*): Sometimes tremendous catastrophies have resulted in jails from softness and tenderness on the part of Jail officers.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Is punishing a prisoner the sole means of reformation or retribution?

MR. K. GEORGE (*Chief Secretary to Government*): One object of imprisonment is to save society from the contaminating influences of certain individuals.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Is it not necessary to reform the prisoner so that he may not be a trouble to the society?

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MR. K. GEORGE (*Chief Secretary to Government*): The necessity to punish a prisoner is to deter him and others from committing the same offence.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Nedumangad*): The ultimate object of punishment is to hand back the criminal to society as a useful citizen.

MR. K. GEORGE (*Chief Secretary to Government*): While he is there, the safety of the institution requires to be kept in view. Whatever may be the form of punishment, that should be in conformity with the maintenance of discipline.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Is writing an anonymous petition very dangerous?

MR. K. GEORGE (*Chief Secretary to Government*): Anything that seriously weakens the discipline in the Jail is very dangerous.

MR. M. SIVATANU PILLAI (*Tovala*): Does the Chief Secretary think that writing of anonymous petitions will affect Jail discipline here, more than in other Jails?

MR. K. GEORGE (*Chief Secretary to Government*): I do not quite follow.

Everyone knows that there are certain characters which cannot be corrected except by corporal punishment. Mr. Madhavan Pillai has just read out to us something written by an eminent authority on the subject. I have also got some authority to support my position (*Laughter*). This is an extract from the latest Administration Report of the Bombay Presidency.

The Report says that in the previous year "many more cases of assault were referred to the criminal courts, whereas in the year 1926 more were punished by flogging. The latter is usually the more efficacious method of dealing with violent prisoners as it is inflicted without any delay and is a more deterrent form of retribution than an additional term of imprisonment."

So, while Mr. Madhavan Pillai quoted the case of Madras, I may quote Bombay.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Does the Chief Secretary endorse the views expressed in all these Reports?

MR. K. GEORGE (*Chief Secretary to Government*): These Reports are records of experience of successful Jail administration. They may therefore be considered as authorities on the subject.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Does the report now read refer to Judicial or Jail punishments?

MR. K. GEORGE (*Chief Secretary to Government*): Jail punishments.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): May I know whether the prisoners in question are political offenders or ordinary offenders?

MR. K. GEORGE (*Chief Secretary to Government*): Ordinary offenders.

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MR. M. SIVATANU PILLAI (*Tovala*): Does the Chief Secretary say that Bombay is more civilised than Madras?

MR. K. GEORGE (*Chief Secretary to Government*): I say I have as authority the experience of another Inspector-General of Prisons, in another big Presidency, namely, the Bombay Presidency, just to show that experiences of Jail authorities differ.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): What is the practice in English Jails, please?

MR. K. GEORGE (*Chief Secretary to Government*): I understand that recently Great Britain has re-enacted by legislation the punishment of flogging which was abolished some years ago. That also supports my position.

MR. A. K. PILLAI (*Karunagapalli*): May I know on what is this statement of the Chief Secretary based?

MR. K. GEORGE (*Chief Secretary to Government*): On information that I have gathered—

MR. A. K. PILLAI (*Karunagapalli*): Has he any authority to prove it?

MR. K. GEORGE (*Chief Secretary to Government*): I am not just now in a position to show the authority, but I think it is correct.

MR. A. K. PILLAI (*Karunagapalli*): I challenge it.

MR. K. GEORGE (*Chief Secretary to Government*): I think I am correct. (*Laughter*).

So, in regard to grave offences, discretion ought to be left to the Superintendent who is on the spot and who alone knows all the facts about the misdemeanours of the convicts and serious consequences of such misdemeanours if the convicts are not given severe punishment. No doubt, if the law is changed altogether and his discretion is limited, that is a different matter. But once an officer like the Jail Superintendent is entrusted with such grave responsibilities, it is certainly very dangerous to interfere with his discretion, especially in matters relating to Jail discipline.

MR. K. J. JOSEPH (*Minachil* cum *Devicolam*): Is the refusal to come down from a tree sufficiently grave a crime to deserve flogging?

MR. K. GEORGE (*Chief Secretary to Government*): I think so.

Suppose he fell down from the tree, as he threatened he would, and died, that would be a very serious matter. Again, other convicts in the Jail may be tempted to imitate him. Many others may run away from the Jail. If any such thing happens, all of us will join in criticising the Jail Superintendent and in condemning him for not being more careful.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Nedumangad*): If a convict escapes from prison, you can prosecute him; but you did not do it in this case.

MR. K. GEORGE (*Chief Secretary to Government*): Such deterrent punishments are awarded by the Jail Superintendent to *prevent* escapes. Prosecution arises only after escape.

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MR. K. I. JOSEPH (*Minachil* cum *Devicolam*) : Could not the offender who refused to come down from the tree be given some other form of punishment than flogging ?

MR. K. GEORGE (*Chief Secretary to Government*): I read a little while ago that this is a form of punishment which has a most deterrent effect.

MR. M. SIVATANU PILLAI (*Tovala*) : From the fact that he ultimately got down from the tree, it is clear that as a matter of fact he did not climb with the intention of dropping down and die ?

MR. K. GEORGE (*Chief Secretary to Government*) : From the top of the tree he threatened that he would jump down.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): He was a life prisoner and this was the first Jail offence, in his cases That being the case, does the Chief Secretary think that he deserves flogging ?

MR. K. GEORGE (*Chief Secretary to Government*) : In regard to this individual cases, Sir, unless we happen to be on the spot and know all the circumstances, we cannot guage the gravity of the situation. The effect on other prisoners of the conduct of this convict, the time and the circumstances under which he did his mischievous act—all this might have impressed the Superintendent – the man on the spot—with the necessity of inflicting corporal punishment on him.

Mr. Madhavan Pillai mentioned about official visitors and pointed out that they are not visiting the Jail regularly and that they are not properly recording their opinions. He also wanted that one of the High court Judges should be made an official visitor. I think this question was referred to the High Court and they said that it was not possible. I have not got those papers with me and therefore I am not in a position to say what exactly was their opinion in the matter. As far as I remember, I think they said it was not possible. As regards the other official visitors, his remarks will be taken note of, the matter will be looked into and they will be informed that their visits should be more regular and more effective.

Something was said about civil debtors. Of course, that is not a matter which ought really to come in the course of the present discussion about prison. It ought to come as a matter of fact in the discussion of the Judicial Budget because civil debtors are sent to the Jail at the instance of the Courts. The Jail Superintendent has simply to look after them.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*) : I simply mentioned that with a view to show that if a High Court Judge is made an official visitor, he would be in a position to investigate the causes of their debts and to suggest some relief to the debtors.

MR. K. GEORGE (*Chief Secretary to Government*) : I think that sort of investigation can be done even by the present official visitors.

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MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): But the present visitors are not High Court Judges. They are only District Judges or District Magistrates and they are not appellate authorities. If an appellate authority like a Judge of the High Court is made an official visitor, he will be able to investigate the question and give necessary instructions to subordinate courts.

MR. K. GEORGE (*Chief Secretary to Government*): The High Court can give instructions only according to the law now in force. I think Mr. Madhavan Pillai wants some radical changes in the law itself. For amending the law, we will have to come to this Council.

As regards the work of reformation of the prisons, I admit, Sir, that to some extent there are defects in our Jail administration. But it cannot be denied that there are certain things which are being done even at present. For instance, religious and moral instructions are being given by various non-official agencies.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Yes, combined with flogging in another corner!

MR. K. GEORGE (*Chief Secretary to Government*): I do not see how flogging will take away the effect of moral instruction.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Flogging will have the most demoralising and degenerating influence and therefore where is the use in giving moral instruction side by side with flogging?

MR. K. GEORGE (*Chief Secretary to Government*): Punishment and reformation will go hand in hand.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): May I know what is actually done now in this direction?

MR. K. GEORGE (*Chief Secretary to Government*): Religious and moral instruction are imparted by various non-official agencies. Then there are classes for adults to impart general education.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Of the total number of illiterates may I know how many of them are having such instructions? I think, of the three hundred and odd illiterates, only forty get this instruction.

MR. K. GEORGE (*Chief Secretary to Government*): We do not compel them to attend these classes.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Then what is the use? You go and flog them but you are not able to compel them to learn.

MR. K. GEORGE (*Chief Secretary to Government*): I doubt whether the law allows that.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Even in regard to the general public, we hear they are asking for a compulsory education. Is it not more necessary in the case of these convicts? This is done in Madras.

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MR. K. GEORGE (*Chief Secretary to Government*): But the law must allow it.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I think Government have authority to frame rules under the Prisons Regulation, and therefore they can make rules for compulsory education in the Jail.

MR. K. GEORGE (*Chief Secretary to Government*): Here is the report of the Jail Superintendent which says that education was carried on satisfactorily. During the year under report, 56 students have been trained.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): So out of 352 illiterates, only 56 are attending classes?

MR. K. GEORGE (*Chief Secretary to Government*): Anyway it cannot be denied that something is being done by us in this direction.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): I say it is only a cloak intended by you, just to show that you are reforming the prisons. But the basic foundation of punishment here is retribution.

MR. K. GEORGE (*Chief Secretary to Government*): If that be so, there need not be any attempt at all in this direction.

PRESIDENT: I am afraid the debate is getting far too conversational.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): May I know what is the total percentage employed in manufactures?

MR. K. GEORGE (*Chief Secretary to Government*): I cannot say the exact percentage. According to the administration Report various kinds of arts and crafts are being taught there. For example, there is the Jail Press.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): You must be able to tell us the percentage actually employed in industries and what an individual is able to earn ordinarily from such industries.

MR. K. GEORGE (*Chief Secretary to Government*): I am not able to give definite information about that now. I am attempting to show that the jail authorities have already introduced various kinds of reformatory influences in the Prison. Certainly, there is scope for improvement. I want to point out that even at present a good deal of work is being done in this direction.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): May I know what is being done in the matter of imparting religious and moral instructions?

MR. K. GEORGE (*Chief Secretary to Government*): I have already stated that this is being carried on by private agencies.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Who are those private agencies?

MR. K. GEORGE (*Chief Secretary to Government*): There are Christian Societies giving instruction to Christians, Hindu agencies to Hindus and Mahomedan agencies to Mahomedans.

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MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): What do they do?

MR. K. GEORGE (*Chief Secretary to Government*): Teaching their religion.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Is it being done every day or only occasionally?

MR. K. GEORGE (*Chief Secretary to Government*): I think once a week.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Are the convicts allowed sufficient opportunity to perform their religious duties?

MR. K. GEORGE (*Chief Secretary to Government*): Yes.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Are the Roman Catholics allowed to hear mass on Sundays?

MR. K. GEORGE (*Chief Secretary to Government*): There cannot be any objection if the Superintendent allows it.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Does he allow it?

MR. K. GEORGE (*Chief Secretary to Government*): I will find it out.

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*): In supporting the motion brought forward by my esteemed friend, Mr. Madhavan Pillai, I wish to say a word on the object of punishment from the point of view of mental and moral science and of general State policy. The object of punishment is public welfare. Of course, it may happen that the object of punishment is described as either retributive, deterrent or reformative. But in modern jurisprudence, it is well established that the most important object of punishment is deterrent. So far I agree with Mr. George. To deter others from actions which are detrimental to the public interest, is the chief object of punishment not merely to reform the offender but also to deter others from committing similar acts against the public safety. But in this particular case, of writing an anonymous petition, is it such an offence against the public safety? Here the idea of awarding deterrent punishment, has no place at all. So I completely agree with Mr. Madhavan Pillai in saying that this punishment was more or less cruel and inhuman.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Is writing an anonymous petition an offence under the general penal law?

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*): I think it is not, so far as I know. Anyhow, in this connection, it has been very well brought out by the facts adduced by Mr. Madhavan Pillai that the prison administration is unsatisfactory. The real cause of the trouble seems to me that merely a rough and ready person is appointed as the head of the Jail administration. I think all higher appointments in the State, should be held by men of high culture. Especially a Prison officer, who has to deal with the discipline and the care of a large number of human beings who are more or less deviation from the normal human beings, that is more or less abnormal, should be a man who is an expert in mental and moral science and the principles of the general State policy. A mere rough and ready man is not fit for holding such office.

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[Mr. G. Raman Menon.]

Of course, the influence exerted by visitors may do a great deal towards educating the prisoners. The head of the institution himself and his subordinates if they do their work properly can promote the interests of the prisoners. I think it is better to have a proper man at the head of the institution. Then the controversial question of having a moral or religious instructor will also be solved. With these words, I support the motion.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*) : The Chief Secretary has admitted that punishment is with a view to reform the individual and thereby to benefit the society at large. In the light of this, the question to be considered is whether the present system of Jail administration is satisfactory. I admit that the training given on industrial lines and also the imparting of general education are good so far as they go. But I believe that the imparting of religious and moral instruction is a more important factor than any other in the matter of reforming the individual or society. I am sorry to see that in the management of the Central Prison, the provisions relating to the imparting of religious and moral instruction are not satisfactory and that they do not afford sufficient opportunity to the prisoners to attend to their religious practices. It is said that non-official visitors give them moral instruction once a week. But I believe this is not sufficient and Government should devote attention to this matter. The prisoners have to be given sufficient opportunity to undergo their religious practices. Each community must be allowed to have their religious observances done. They should be allowed to go out for the purpose if necessary under the custody of some of the jail officers or officiating ministers should be allowed to attend to the needs of the prisoners in the jail itself.

MR. A. K. PILLAI (*Karunagapalli*) : What is given there is not religious, but moral instruction on ethical lines.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*) : What I say is that both moral and religious instruction should be given there.

MR. M. SIVATANU PILLAI (*Tovala*) : Will it not take long time?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*) : That does not matter. I think it will be good if half an hour every day is devoted for the purpose, and I would suggest tkat the Government should make necessary provision for the same.

Another thing I would like to mention is as regards flogging and penal diet. I consider that flogging is a very crude form of punishment and penal diet is also very hard.

MR. K. GEORGE (*Chief Secretary to Government*) : Will the member suggest any other form of punishment.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*) : I would suggest hard manual labour and, if necessary, that in the hot sun for six or seven hours a day with chains on, if deemed fit to do so.

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Penal diet combined with solitary confinement is a very hard punishment inflicted on a prisoner, however hardened a criminal he may be. We should aim at reforming them and not make them more hardened. With these few words, I support the motion.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Sir, I have very great pleasure to support the motion brought forward by Mr. Madhavan Pillai. The Chief Secretary in his reply observed that he is also much pleased with the representation made by Mr. Madhavan Pillai. In suggestions coming from such a warm Jail reformer, he evidently thought that there is an amount of exaggeration and colouring imparted to the subject by the mover. If the Chief Secretary is in agreement with the spirit of the motion made by Mr. Madhavan Pillai I have very little quarrel with the Government benches in this respect. But if it is intended by the observation that the substratum of the motion itself is in some sort of disorder not acceptable to Government, then something has to be said. The topics referred to by Mr. Madhavan Pillai may be traced to a very great movement elsewhere in the civilised world, centering round a new subject generally known as criminalogy. The literature upon the subject of criminalogy is so vast and growing that it bids fair to become a very important subject in the near future. In America, the criminals are not considered as we look upon them but they are taken to be results of variations from normal human standards either to the sub-normal or abnormal variety and they are detained in prisons mainly for the purpose of reformation. Whatever be the theories that may underlie the question of punishment, the main attention of criminalogists now-a-days is to reform the individuals. That being the case, to say that this growing subject should not receive adequate attention in our Jails and prisons, I beg to submit, is not correct.

The harshness with which our prison authorities are maintaining discipline has been very well illustrated by the instance of flogging for an alleged offence of writing an anonymous petition. Sir, under the normal Penal Law, writing an anonymous petition is not an offence. Therefore because two convicts thought of writing some anonymous petitions—what exactly the contents of the petitions were I am not told, but as I was able to gather from the present discussion they were obviously against the jail authorities—to say that they have committed such a serious offence as to merit flogging, does not appear to me to be convincing.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Is it not against the Jail Rules to send out any communication without the consent of the Jail authorities?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): To send any communication may probably be against the Jail Rules; but, by the mere fact that it happens to be an anonymous petition, how is the Jail Rule infringed to a greater degree? Any writing is itself an offence under the Jail Rules; and it is also an offence to violate any of the Jail Rules. But, simply because it happens to be an anonymous petition, how does it make it a more heinous crime?

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MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Evidently, the writers wanted to conceal the identity of the author. Does not that make it a more grievous offence?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): As I have already stated, to have written anything at all without permission is an offence under the Jail Rules. But the fact that it happens to be anonymous does not add to the offence at all.

MR. K. MADHAVAN PILLAI (*Trivandrum cum Neduvangad*): The offender did not finish the petition. He was caught in the act.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): That aspect of the matter is new to me. My point is that, in spite of the rule prohibiting writing without the permission of the authorities, other persons might have written so many letters and they should also have been dealt with by the authorities in some way or othtr. It has not been contended on behalf of Government that in all such cases the punishment of flogging has been awarded to the offenders. Therefore, the importance that is now being attached to the fact that it was an anonymous petition, is what I am not able to understand. The position in regard to this particular case has been very correctly put forward by Mr. Madhavan Pillai when he said that the people accused by the convict, namely the Jail authorities, assumed the roll of the Judge also in the present instance. Flogging, according to the learned Chief Secretary, we cannot do without. I say it has got an inherent vicious nature as a punishment, for it is one of those punishments, which on appeal, from the authority inflicting the punishment, cannot be set right. In the case of imprisonment the party who is in prison may appeal to the higher authorities and get redress by reversal of the conviction. But, in the case of flogging, especially when it is administered there is nothing to be gained by getting a reversal of the verdict. It is prompted by hot blood. It is barbarous. It is incapable of being counteracted; and, under these circumstances whether it is a suitable form of punishment is a question of considerable doubt to me.

MR. K. I. JOSEPH (*Minachil cum Devicolam*): Will it not harden the prisoner and make him incapable of being reformed?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I have already stated that it is barbarous, and all barbarous punishments necessarily tend to harden the convicts.

I would submit, Sir, that one of the greatest prison reformers arose in England, and the English race acted up to the recommendations of that great reformer, I mean Howard, the Philanthropist. The American cousins of the English nation have gone far of there in favour of making reforms in the field of criminalogy. Under these circumstances, when the learned Chief Secretary says that flogging is being reintroduced in England, I have to take that statement with a grain of salt. No doubt in British India you have got the same tendencies as we have here, more especially in view of the Commission recently issued by the Bengal Government in connection with this question of

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jail reform. The view of the majority in that commission seems to be that the rules should be made stiffer with respect to the prisoners. But there is an outburst of public opinion against that view of the majority. It is humane treatment that is required. The criminal should not be given the impression that he is an abandoned human being and that he cannot be treated just as every other human being. It is this idea that is now being instilled into the minds of criminals. And it is this that has to be avoided. The idea should be implanted in the mind of the criminal that he is also a normal human being and that he would also be treated just as every other human being. Such means as moral and religious instruction, the practice of allowing criminals to see normal human beings as often as they possibly can by arranging the visitors to visit the jail frequently, and the practice of allowing the prisoners to receive kindness at their hands, such sort of treatment would bring them back into line with normal human beings. That is exactly the direction in which criminalogy is now attempting to advance. There is an amount of mental deficiency in the case of these criminals, as has been pointed by many efficient doctors. There is also the psycho-legal relationship. The mental expert as well as Professors of Psychology have to say a good deal in the matter. Therefore, without diagnosing the real causes we should not go on inflicting all sorts of punishments on these poor people and should not keep them under barbarous conditions.

It was suggested by Mr. Madhavan Pillai that judges may be allowed to see these prisoners in the jail. If judges are allowed to see the prisoners there would be one advantage at any rate. It would show that our methods of punishments are themselves out of proportion to the offences. For example, in the case of a Newspaper Editor who was punished the other day for creating communal tension between two communities the punishment was, I understand, one year's rigorous imprisonment. On the other hand, when a certain member of Parliament the other day in England, gave expression to a good deal of virulent language against the British Government itself, the only action taken against that gentleman was that he was asked to find some surety Look at the disparity in the outlook towards the punishments in the two cases. If our Judges are made to understand how the prisoners, that they themselves have condemned to punishment, fare in the prison, I think their outlook upon punishment might change. How to suit punishment to crime is a very keenly discussed question in the administration of criminal law. That is a very difficult problem. I think if our Judges are allowed to visit the prisoners, it would be of help to them in solving this problem and in awarding punishments suitable to the crimes. The difficult question is as to how to keep the prisoners under control for the purpose of their own reform, and ultimately, on release to make them serviceable as members of society. That is the important question that we have to consider. That should not be simply brushed aside as the suggestion of an ardent prison reformer. I would therefore request Government to take the matter very seriously into consideration and to do something substantial in that direction.

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MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Sir, I must assure the learned Chief Secretary that I am not at all a prison reformer and that I have not at all exaggerated anything in my speech. I felt, and I do feel strongly, that if we should expend money on our jails we must expend it for a useful purpose; and our object must be to bring the prisoner under such influences, moral, mental or physical, as would operate upon his mind in such a way that he would cease to desire to do evil. Punishment may have several objects. To deter people from repeating the offence, that might be one object. But the fundamental object must be to see that a man who commits crime does not commit crime again. Unless we accomplish that, I think our expenditure on prisons is mere waste. The learned Chief Secretary is not disposed to concede the point that, from the illustrations that I brought to the notice of Government, the object that the Government have at present in view is not retribution. I cannot accept it. That they are not reformative is my position. They should move along the path of reform and attempt to do more reformatory work in the jail than they are now doing. My request was very moderate. I wanted that flogging as a jail punishment should be prohibited for the reason that the prisoner flogged should not become degenerate and should not be degraded in the eyes of other prisoners, and, as I said before, he should not be dehumanised and get beyond redemption. My firm conviction is that flogging will not enable us to achieve our end, namely the reformation of the criminal. I have therefore made a definite proposal that flogging should not be inflicted except in cases of severe assault on jail officials. This is a very reasonable demand, and Government must find their way to accept it.

The next point that I pressed was in regard to the invitation of a Judge of the High Court to become an official visitor to the Jail. I read out from an authority to show how essential such a step is. The Judge, as Mr. P. K. Narayana Pillai pointed out, must be made to get himself acquainted with the condition of the prisoner, when he is undergoing the punishment that has been inflicted on him, and also with the effect of the punishment awarded to him. This will have a great effect on punishment awarded to him. This will have a great effect on punishment generally. It will not do if the High Court Judges simply say that they would not concern themselves with the prisoners whom they themselves have thrown into the prison to be incarcerated there. They should certainly take interest in the prisoners whom they themselves have sent into the jail, so that they could be in a position to know how the victims of punishment fare in the jail. I therefore press the motion.

MR. K. GEORGE (*Chief Secretary to Government*): Sir, I have very little more to say. The Administration Reports of the Prison for the various years do indicate that the administration is satisfactory from many points of view. For instance, the diseases of convicts are far less now than they used to be in previous years.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): I have reduced my position to two definite points.

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MR. K. GEORGE (*Chief Secretary to Government*): But other observations were made by other members in the course of the discussion.

The mortality rate in the institution has gone down. There was only one death, I think, last year. The discipline is being maintained very strictly and without any mishaps. The only question of importance that came up was that of flogging in the jail. Sir, there was only one case of flogging in the whole of 1101. I do not think that can be said to be indicative of the spirit of retaliation on the part of the jail officials. The case of flogging for writing anonymous petitions was an incident which took place in the year 1099. Even in that case, it was resorted to, not when the convict had written a single anonymous petition. The offender was in the habit of doing so, and there were copies of a number of anonymous petitions that he had written. And it was thought at that time, by the Jail Superintendent, that it was very wrong on the part of the offender to have persisted in that act.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): May I know whether any of those two persons had ever been awarded any jail punishment previous to that flogging?

MR. K. GEORGE (*Chief Secretary to Government*): One of them was a habitual offender.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): My question was whether he had been at any time before he was flogged punished for jail offences?

MR. K. GEORGE (*Chief Secretary to Government*): He was a hardened criminal and so the Jail Superintendent thought that it was necessary to deal with him somewhat severely.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): One of them was a hardened criminal. But, what about the other who had not committed any jail offence before?

MR. K. GEORGE (*Chief Secretary to Government*): In that particular case, personally speaking, I think the man was dealt with only as he deserved.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Does the Chief Secretary say this in regard to both of them?

MR. K. GEORGE (*Chief Secretary to Government*): In all these cases, Sir, I would rather leave it to the man on the spot who knows the circumstances and who knows how best to set an example to the other prisoners in the Jail. Punishment is not merely intended to reform the criminal. It is also intended to deter others from following the example of the offender, so that jail discipline may not be weakened and the whole institution might not become riotous and beyond control.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Two men were flogged for writing anonymous petitions. The Chief Secretary said that one of them was a hardened criminal. What about the other? Why was he also flogged?

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MR. K. GEORGE (*Chief Secretary to Government*): I did not know that two men were flogged. It was an incident that took place in 1099. I have not got the report with me now.

As I have already stated, Sir, in the Bombay Presidency, the number of cases in which flogging was resorted to increased in the year 1926. I believe the number came up to 26 as against 17 in the previous year. There is therefore some differences of opinion as to how often and in what cases flogging should be resorted to. It must be admitted, of course, that it is not the proper form of punishment for all classes of offences. But it may be necessary for the sake of others residing in that institution and for the sake of preventing dangerous catostrophes very likely to occur in an institution where there are hundreds of criminals.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): May I know whether flogging is a preventive measure?

MR. K. GEORGE (*Chief Secretary to Government*): I said that it was intended to deter others from committing the same sort of offence. It is preventive in that sense only.

Now the Government have laid down a rule to the effect that flogging should be resorted to on as few occasions as possible and only in grave cases. That has been the recent ruling of the Government. The Jail Superintendent has been told that only in very grave cases, where no other punishment would be suitable, should flogging be resorted to.

As regards the question of a Judge of the High Court being made an official visitor, I think, in a matter like this, it is necessary for the Government to leave it to the judgment of the High Court themselves. Anyhow, the member's view can be communicated to the High Court and they will be asked to express once again their considered view on that matter.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): May I know whether sufficient opportunity is being given to the convicts to attend to their religious duties?

MR. K. GEORGE (*Chief Secretary to Government*): There is ample provision in the rules for religious instruction being imparted to the convicts; and I believe there are no restrictions imposed by the Jail Superintendent on the regular admission of ministers of religion into the jail for that purpose.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): My question is whether there is sufficient opportunity for the convicts to attend to their religious duties, as for example, in the matter of attending mass on Sundays in the case of the Catholics.

MR. K. GEORGE (*Chief Secretary to Government*): That must be in a church.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Not necessarily. The priest may be allowed to conduct the masses in the jail itself.

MR. K. GEORGE (*Chief Secretary to Government*): The priests are allowed admission there. It is a matter for the priests to consider whether it could be convenient for them to do so.

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MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): If the necessary convenience is afforded, the priests will have no objection to do it.

MR. K. GEORGE (*Chief Secretary to Government*): I do not think the rule prohibits it. But on every such occasion, care will have to be taken to see that the Jail discipline is not affected by this.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): This will not interfere with jail discipline.

MR. K. GEORGE (*Chief Secretary to Government*): It might.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): May I know whether, the Government will consider this aspect of the question and, if possible make the necessary provision for that?

MR. K. GEORGE (*Chief Secretary to Government*): Nobody has ever represented the matter to Government.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): I am now asking Government whether they would consider the question.

MR. K. GEORGE (*Chief Secretary to Government*): Whether the member is the proper person to make a representation on this matter is the question that has to be considered.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Am I to understand that I am not entitled to make a representation in this matter?

MR. K. GEORGE (*Chief Secretary to Government*): No such representation has been made to Government by the religious heads of these societies.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Am I to understand that the Government will not consider it because the representation comes only from me and not from the religious heads?

MR. K. GEORGE (*Chief Secretary to Government*): I think it is a matter for the religious heads of these churches.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): I do not see any reason why the representations should be made by the religious heads themselves. May I know whether on *my* representation the Government will be prepared to consider the matter?

MR. K. GEORGE (*Chief Secretary to Government*): I think the Government ought to get some authoritative representation from the religious heads.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): May I know what the Chief Secretary means by '*authoritative*'?

MR. K. GEORGE (*Chief Secretary to Government*): The member can understand it. I cannot explain it further. Everybody knows what is meant by a religious head.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): May I know what is meant by '*authoritative representation*'?

MR. K. GEORGE (*Chief Secretary to Government*): I mean a representation from a religious head and not from a layman.

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MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Am I to understand that the Government will consider only the authoritative statement of a religious head and not a representation made by a member of this Council?

MR. M. SIVATANU PILLAI (*Tovala*): May I know whether reference to an etymological dictionary would not make the meaning clear?

MR. K. GEORGE (*Chief Secretary to Government*): In a religious matter, I think a representation from the head of a church is necessary. No representation has hitherto been made to Government on this subject.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): May I know whether the Government will consider *my* representation? (*The Chief Secretary resumed his seat.*) If the Chief Secretary refuses to answer, of course, I am forced to sit down.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): May I know whether a member on the other side can resume his seat, before answering a question, without referring the matter to the Chair and getting a ruling on it?

PRESIDENT: His time was long up. So, I signalled to him to sit down (*Laughter.*) Are you pressing your motion, Mr. Madhavan Pillai?

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Yes; because in the matter of flogging, the answer was unsatisfactory. So I want to know the views of the House in regard to that.

The motion was put to vote and carried, 23 voting *for* and 15 *against*.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): I demand a poll.

A poll was taken with the following result:—

AYES—23.

1. Mr. P. Habeeb Mahomed.
2. ,, A. J. John.
3. ,, K. I. Joseph.
4. ,, C. Kerala Varma Koil Tampuran.
5. ,, C. P. Kochukunju Pillai.
6. ,, N. Kumaran.
7. ,, T. Kumara Pillai
8. ,, X. G. Lopez.
9. ,, K. Madhavan Pillai.
10. ,, G. Narayana Pillai.
11. ,, Kallur Narayana Pillai.
12. ,, P. K. Narayana Pillai.
13. Mr. K. P. Nilakanta Pillai.
14. ,, M. N. Pillai
15. ,, R. Padmanabhan.
16. ,, A. K. Pillai.
17. ,, S. Piraviperumal Pillai.
18. ,, G. Raman Menon.
19. ,, Kurandipallil R. Raman Pillai.
20. ,, K. Sivarama Panikar.
21. ,, M. Sivatanu Pillai.
22. ,, M. Subramanya Pillai.
23. ,, C. N. Tuppan Namputiri

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NOES—15.

1. Mr. I. C. Chacko.	9. Mrs. M. Poonen Lukose.
2. ,, R. Dhanukoti Pillai.	10 Mr. T. P. Ramasubba Aiyar.
3. ,, K. George.	11. ,, K. N. Ramasubba Aiyar.
4. ,, P. N. Krishna Pillai.	12. Rao Bahadur K. V. Ranga-swami Aiyangar.
5. ,, R. Krishna Pillai.	
6. ,, Dr. N. Kunjan Pillai.	13. Mr. J. Stephenson.
7. Mr. Kayalam Parameswaran Pillai.	14. ,, A. J. Van Ross.
	15. ,, A. Vipan.
8. ,, W. H. Pitt.	

NEUTRALS—3.

1. Mr. Paul Daniel.	3. Mr. C. P. Tarakan.
2. ,, T. J. Matthew.	

Motion 320.

MR. A. K. PILLAI (*Karunagapalli*): Sir, I am not completely satisfied with the verdict of the House on the motion that has just been carried since my motion is slightly different from that. I beg to make the following motion:

320. To reduce the total allotment of Rs. 92,000 by Rs. 10.

From the speeches we have been listening to, it was clear that the whole question of prison reform needs looking into. I am sure the Chief Secretary would be answering from the other side that we are here following the system obtaining in British India. That would be putting it on broad lines, amounting to saying that I may, if I want to succeed in my object, address the Legislative Assembly in British India. But, Sir, I hope that we are competent to modify *our* rules here and I want to draw the attention of the members to that fact.

From the various small things that have been suggested here during the discussion, it was evident that the Jail Rules are not at all satisfactory. I beg to submit that the whole idea about prisoners and the conception of punishment stand in need of a thorough change. The prisoner is not necessarily one who has merited our punishment in all cases. Very often, it happens that he is only an honourable opponent in practice and in idea (*Laughter.*) I ask the question what would the British Government have done with regard to George Washington if he had been in Britain? He would have been considered a traitor and hanged. But when he succeeded in his attempt, he was proclaimed a hero and a statue was erected in London and honoured by the King-Emperor himself. So, it is only a question of idea. When one has recourse to another man's article at a time when his wife and children were crying for food, ordinarily we say that he is stealing. But if we look more closely into the circumstances, it may not be stealing at all.

My submission, Sir, is that there is both commission and omission in the matter of law as it is administered today, commission because we inflict punishment unnecessarily and omission because we do not provide all the necessary atmosphere and circumstances to reclaim the

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[Mr. A. K. Pillai.]

man from the situation to which he has fallen a victim. Our law is very defective. For one thing, suppose a man goes and steals, gets drunk and then commits some act of which he himself is not conscious and something of which he would himself repent when he gets sober. But then he is punished and he is also very well fed in the jail while his wife and children who depend upon his labour for their maintenance are left starving. Thus a man who has got drunk and committed some mischievous thing gets the merited punishment. He is sumptuously fed at public cost in the jail, while his wife and children who legitimately depend upon the support of that fellow are starving. There, it is a flagrant case of omission. Suppose we do the necessary service to reclaim the prisoner and also to make him humane and provide such facilities as to make him continue the habit of working when he is released, then, that alone will be called a civilised form of segregation or punishment. The Chief Secretary was saying that the objects were segregation, punishment and reformation. The criminal is segregated not for all time but only for a particular period, because during that time we may hope to reform and improve his character and open his eyes as to how hope he should conduct himself in society. On the other hand, if we keep him as a social or moral leper pouring all sorts of expressions of hatred and victimise him from time to time, and release him after a period, then he would consider the world at large as his enemy, as an agency which has been persecuting him. It would look a polished form of cruelty in the case of the particular man who was whipped and who the Chief Secretary said might jump down from the tree and die. So much personal interest was shown in that particular man to get him down lest he should fall down and die and in order that he should be kept alive for receiving punishment from time to time. The personal interest in the man was shown not for his sake, for he was got down and given 24 cuts. I was one of the eye witnesses to one of such punishments. A man who was looking so majestic, who appeared something like Ismail Kemal Pasha was given 24 cuts for a very minor crime before my eyes. Then as my friend Mr. Madhavan Pillai was remarking, it dehumanises the man. The finer sentiments of the man are robbed and destroyed for ever and then when he is left at large, he may do anything because the last fire is taken away from him. So, I think the question of jail reform is not to be treated with any amount of light-heartedness. It requires very serious reflection and examination. My idea is that jail must be made an enlarged reformatory. Just as we have reformatory for boys, we must have a larger reformatory for adults. Just as we have schools for children and also schools for adults, the jail must also be an enlarged school for adult convicts. We have got to look at it in that way. The strength of a chain depends upon its weakest link; so the standard of civilisation of a country must be gauged by the morale of the least educated men, men who are situated in unfortunate circumstances. And instead, if you are going to make use of the agency which is run by the best intelligence to punish the man in a civilised form, I

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am sure the Government must stand condemned and the society which praises that Government must also stand condemned. The man who has been a criminal has been a victim of social laws, social conditions and environments. If he has been starving as his wife and children were starving, it is not always due to his own fault. He may want work. But there may be no work forthcoming. He may be starving, his relations may be starving. Their love which we may glorify in another connection—that love drives him to steal from a neighbour who has got accumulated wealth. But we punish him in self-interest, in the interest of a wealthy few. The particular man in question was punished more in the personal interest of those who are there to look after discipline, because they know that unless something extraordinary is done, things would be going out of their hands. On the other hand, if we look at the matter deeply, we will understand the real worth. Probably they have been getting nervous; probably they were also moved by a sense of personal retaliation, because of the consideration that the man who wrote the anonimous petition wrote against certain acts of the authorities themselves. Now, what is the facility that we are now affording to the convicts for the ventilation of their grievances? They are segregated in a place away from the eye of the public, and then if they have got a grievance how will it be known to the authorities? They cannot communicate and if they choose this method of writing some letter which may be anonymous, they would be very severely and brutally flogged. And this form of punishment has been defended by the Chief Secretary! But I should consider that this form of punishmsnt, I mean flogging, is a survival of the barbarity of the olden days.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Does it apply also to the parents who punish their children?

MR. A. K. PILLAI (*Karunagapalli*): I should consider it as an absolute confession of weakness on the part of parents and instead of hating the parents, I would sympathise with them for their ignorance.

I am not quite sure if in England whipping is allowed at all. If it is, I should feel sorry that that nation has fallen from their civilisation. For, whatever may be their fault, they are having a civilised Government.

The deterrent aspect of the matter was emphasised again and again. But may I point out that any punishment that is deterrent will only produce more and more crime. And, for this reason, any form of torture may be defended. If we leave the punishment to blood relations they would have punished more and more effectively and in an efficient manner. But the civilised society thought it was not good. The society took upon itself the responsibility of reforming the prisoner, because the prisoner is in the charge of the society and society owes a responsibility to itself and also to the unfortunate prisoner to reform him and send him out a better man than he was found when he was taken as a prisoner. Unless we take up that responsibility upon

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[Mr. A. K. Pillai.]

ourselves, I am not sure if we are doing anything to reform him except to perpetuate, in a civilised manner through a civilised agency, the old blood feuds.

I now come to the second point which I want to discuss. I moved a cut motion last year with regard to the under-trial prisoners. Government were gracious to accept that motion. I think they are also taking some steps to carry out their promise. From enquiries on the spot, I understand that these prisoners are not very much better than they have been before. The one thing I emphasised then was that it is very scandalous to keep the undertrial prisoner in the custody of the police. It is scandalous because we are allowing the accused to be at the tender mercy of the prosecutors. It obtains nowhere else. We know that in the cases of stealth and murder, the police are charged to find out the real culprits.

PRESIDENT: We are dealing with the prison and you are dealing with the police.

MR. A. K. PILLAI (*Karunagapalli*): I think undertrial prisoners must come under this.

PRESIDENT: No.

MR. A. K. PILLAI (*Karunagapalli*): Very well, I will conclude by saying that it is very necessary to have sub-jails in all districts to keep undertrial prisoners and that they should not be left at the tender mercy of the police who are charged with the duty of prosecuting them.

MR. W. H. PITT (*Commissioner of Police*): What has that to do with the jail administration?

MR. A. K. PILLAI (*Karunagapalli*): Sir, I will sum up my position like this. I want an enquiry to be conducted into the whole jail administration with a view to better the condition of convicts, and I have only broadly hinted the places where reform is necessary. But all that would be discussed by the enquiry committee. I think it will be very necessary. The second point is the creation of sub-jails. If that comes under the head "police" I will avail myself of the opportunity of discussing it when we deal with the Police Budget. That is a point which I wish to bring up for the consideration of the House.

MR. K. GEORGE (*Chief Secretary to Government*): Sir, Mr. A. K. Pillai's chief point is the necessity for revising the Jail Rules and perhaps for modifying the Jail Regulation. I have very little quarrel with him on most of what he said. The theories that he stated, i. e., the theories regarding the necessity for reformatory influence in dealing with criminals, are, I believe, most of them, accepted by all civilised Governments. But one impression that I had from his speech was that by reforming the jail we would be able to reform society. That certainly is impossible. The ideal state that he pictured is one of reconstructed society which by no manner of reform in jails could be established in this world of ours.

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MR. A. K. PILLAI (*Karunagapalli*) : On a point of explanation, I may say that I only said that jail should not be made a weapon for punishing poor people who have been victims of lapses in social condition.

MR. K. GEORGE (*Chief Secretary to Government*) : But he said that many of these people are there on account of lapses of social laws, which by themselves are not righteous laws. Well, in all this, what he really pleaded for was a reconstructed society in which the rule of righteousness would prevail. That certainly is the millenial ideal but the effort to reform has to be made outside the prison and not inside the prison. I do not say that the prisons should not be reformed. Wherever reform is necessary, it ought to be effected and the most human methods should be employed. (Mr. P. K. Narayana Pillai: *Hear hear.*) However, I am authorised to say that, in this matter, Government will consider the whole of the Prison Regulation and the rules coming under that. In regard to sub-jails, the rules are under consideration and they will also be revised as quickly as possible and brought into force.

MR. A. K. PILLAI (*Karunagapalli*) : I beg to withdraw the motion.

The motion was, by leave, withdrawn.

PRESIDENT : I take it that the House grants under Demand XII—Central Prison—Rs. ·92 lakh *less* Rs. 100.

The grant was made.

DEMAND XIII—POLICE—Rs. 5·72 lakhs.

MR. W. H. PITT (*Commissioner of Police*) : Sir, I beg to move for a grant not exceeding Rs. 5·72 lakhs under Demand XIII—Police.

There is one suggestion that I would like to make at this stage if I am permitted. On Thursday next, a resolution standing in the name of Mr. Raman Menon which deals with motor traffic is to be discussed. The whole question of motor traffic and motor accidents and control of motor traffic is sure to come up then, and it is also a big question of ever-growing importance and one dating according to Mr. Sivatanu Pillai from puranic times, as he said the other day, and I think it will require more time. So, if the members agree, we might leave all such questions until Thursday. That is only a suggestion. That is why I say if the members agree. If the members want it now, they can have it.

One other thing I should like to say is with regard to the undertrial prisoners. It comes under Administration of Justice—Criminal Courts—page 67 of the budget. It has nothing to do with the Police.

Motion 321.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : I beg to move the following motion :

321. *To reduce the allotment of Rs. 13,716 for establishment by Rs. 100.*

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